

Filed for intro on 04/05/2001

HOUSE BILL 1989

By Scroggs

AN ACT to revise and re-enact the charter of the Town of Collierville, as enacted by Chapter 230 of the Private Acts of 1988, as amended, and to repeal Chapter 230 of the Private Acts of 1988 and all acts amendatory thereto.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. The Charter of the Town of Collierville, being Chapter 230 of the Private Acts of 1988, as amended by Chapter 35 of the Private Acts of 1991, Chapters 174 and 175 of the Private Acts of 1992, Chapter 187 of the Private Acts of 1996, Chapter 41 of the Private Acts of 1999, and all acts preceding and amendatory thereto, is amended in its entirety to read as follows:

## **ARTICLE I**

### **INCORPORATION, NAME, AND CORPORATE BOUNDARIES**

**SECTION 1.01. INCORPORATION; NAME.** The inhabitants of the Town of Collierville, in the County of Shelby and State of Tennessee, be, and they are hereby, constituted a body politic and corporate under the name and style of the town of Collierville, hereinafter sometimes referred to as the "Town".

**SECTION 1.02. CORPORATE BOUNDARIES.** The Town, located in Shelby County, Tennessee, hereby is bounded as described in Chapter 217 of the Acts of 1870, all Acts amendatory thereof, and annexations made pursuant to general law.

## **ARTICLE II**

### **CORPORATE POWERS**

**SECTION 2.01. GENERAL POWERS.** The Town shall have perpetual succession, may sue and be sued, grant, receive, purchase and hold real, mixed and personal property, and may have and use a corporate seal and may alter the same at its pleasure.

### **SECTION 2.02. MISCELLANEOUS POWERS.**

(a) The Town shall have the power to:

- (1) Assess, levy, and collect taxes for all general and special purposes on all subjects and objects of taxation authorized by law;
- (2) Adopt such classifications of subjects and objects of taxation as may not be contrary to law;
- (3) Make special assessments for local improvements;
- (4) Contract and be contracted with;
- (5) Incur debts by borrowing money or otherwise and to give any appropriate evidence thereof;
- (6) Issue and give, sell, pledge, or in any manner dispose of negotiable or non-negotiable interest-bearing or non-interest bearing bonds, warrants, promissory notes, or orders of the Town, upon the credit of the Town or solely upon the credit of specific property owned by the Town or solely upon the credit of income derived from any property used in connection with any public utility owned or operated by the Town or

solely upon the credit of the proceeds of special assessments for local improvements or upon any two (2) or more such credits;

(7) Expend the money of the Town for all lawful purposes;

(8) Acquire or receive and hold, maintain, improve, sell, lease, mortgage, pledge, or otherwise dispose of property, real or personal, mixed, and any estate or interest therein, including the acquisition of property for recreational use, within or without the Town or state.

Furthermore, to regulate all public grounds belonging to the Town, to provide for the erection and repairing of all buildings and other improvements necessary for the use of the Town, and the power to convey property by sale to any purchaser thereof in any manner provided by the ordinances of the Town, when a property is no longer required for public use. The Town shall also make all necessary rules and regulations for the use of public grounds and property;

(9) Condemn property, real or personal, or any easement, interest, estate, or use therein, either within or without the Town, for present or future public use. Such condemnation shall be made and effected in accordance with the terms and provisions of general law;

(10) Take and hold property within or without the Town or state upon trust and to administer trusts for the public benefit;

(11) Acquire, construct, own, operate, maintain, sell, lease, mortgage, pledge, or otherwise dispose of public utilities or any estate or interest therein, or any other utility or service to the Town, its inhabitants, or any part thereof, whether within or without the corporate limits;

(12) Grant any person, firm, association, corporation or other legal entity franchises and/or contracts for public utilities and public

services to be furnished to the Town and those therein. Such power to grant franchises and make contracts shall embrace the power hereby expressly conferred to grant exclusive franchises and make exclusive contracts; and whenever an exclusive franchise or contract is granted, it shall be exclusive not only as against any other person, firm, association, corporation, or other legal entity but also as against the Town itself. The board of mayor and aldermen may prescribe in each grant of a franchise, or in each contract respecting same, the rates, fares, charges, the method of determining same, and regulations that may be made by the grantee of the franchise or contract. Franchises or contracts may, by their terms, apply to the territory within the corporate limits of the Town at the date of the franchises or contracts and to such corporate limits thereafter as same may be enlarged and to the then existing streets, alleys, and to other thoroughfares which may be opened; provided, however, this paragraph shall not affect existing contracts or franchises;

(13) Prescribe reasonable regulations regarding the construction, maintenance, equipment, operation, and service of public utilities and compel from time to time reasonable extensions of facilities for such services, but nothing herein shall be construed to permit the alteration or impairment of any of the terms or provisions of any exclusive franchise granted or of any exclusive contract entered into under subsection 12 of Section 2.02;

(14) Establish, open, relocate, vacate, alter, widen, extend, grade, improve, repair, construct, reconstruct, maintain, light, sprinkle, and clean public highways, streets, boulevards, parkways, sidewalks, alleys, parks, golf courses, public grounds, and squares, bridges, viaducts, subways,

sewers, and drains within or without the corporate limits, and to take any appropriate property for such uses as may be provided by general law;

(15) Construct, and improve any streets, highways, avenues, alleys, or other public places within the corporate limits, to take all other action necessary and incidental thereto, and to assess a portion of the cost of such improvements upon the property abutting upon, or adjacent to, such streets, highways, or alleys under and as provided by general law;

(16) Establish the limits of street, road and alley rights-of-way when necessary;

(17) Assess against abutting property within the corporate limits the cost of removing from sidewalks and other public property all accumulations of snow, ice, and earth; cutting and removing obnoxious weeds and rubbish; street lighting, street sweeping, street sprinkling, street flushing, and oiling; and cleaning and rendering sanitary, or removing, abolishing, or prohibiting of unsanitary conditions in such manner as may be provided by general law or by ordinance of the board of mayor and aldermen;

(18) License and regulate, in accordance with applicable law, all persons, firms, corporations, companies, associations and other legal entities engaged in any business, occupation, calling, profession, or trade;

(19) Impose a license tax upon any animal, thing, business, vocation, pursuit, privilege, or calling unless prohibited by law;

(20) Define, prohibit, abate, suppress, prevent, and regulate all acts, practices, conduct, business, occupations, callings, trades, uses of

property, and all other things whatsoever detrimental or liable to be detrimental to health, morals, comfort, safety, convenience or welfare of the inhabitants of the Town and to exercise general police powers;

(21) Prescribe limits within which business occupations and practices liable to be nuisances or detrimental to the health, morals, security, or general welfare of the people may be lawfully established, conducted or maintained;

(22) Inspect, test, measure and weigh any article for consumption or use within the Town and to charge reasonable fees therefor; and to provide standards of weights, tests and measures;

(23) Establish, regulate, license, and inspect weights and measures;

(24) Regulate the location, bulk, occupancy, area, lot, location, height, construction, and materials of all buildings and structures and to inspect all buildings, lands, and places as to their condition for health, cleanliness, and safety, and, when necessary, to prevent the use thereof and require any alteration or changes necessary to make them healthful, clean, or safe;

(25) Provide and maintain charitable, educational, recreative, curative, corrective, detention, or penal institutions, departments, functions, facilities, instrumentalities, conveniences, and services;

(26) Purchase or construct, maintain, and establish a penal facility for the confinement or detention of any person convicted in Town Court of offenses against the laws and ordinances of the Town and who is required to be confined as a result of such conviction or to contract with other governments to keep said persons in their penal facility(s) and to

provide by said contract and by ordinance for the commitment of such persons to the penal facility(s) so provided;

(27) Enforce any ordinance, rule or regulation by means of fines, forfeitures, and penalties, or by action or proceedings in any court of competent jurisdiction, or by any one or more of such means and to impose costs as a part thereof, but no fine, forfeiture or penalty shall exceed five hundred dollars (\$500) per violation, or as provided by State law, whichever is greater;

(28) Establish schools, determine the necessary boards, officers, and teachers required therefor, and fix their compensation; to purchase or otherwise acquire land for schoolhouses, playgrounds and other purposes connected with the schools; to purchase or erect all necessary buildings and to do all other acts necessary to establish, maintain, and operate a complete educational system within the Town;

(29) Regulate, tax, license, or suppress keeping or going at large of animals within the Town, to impound the same and in default of redemption, to sell or dispose of the same;

(30) Call elections as hereinafter provided;

(31) Determine the boundaries of the Town by appropriate survey or other acceptable method when necessary;

(32) Provide compensation and benefits program for the welfare of the employees and elected officials of the Town;

(33) Provide for the establishment and operation of all offices, boards, divisions, and departments not herein enumerated which may be deemed necessary or expedient in the interest of the Town;

(34) Provide for and establish a planning commission and a board of zoning appeals pursuant to, and consistent with, the general law and to invest such bodies with all the powers conferred by general law; and to act upon the plans, plats, decisions, and recommendations made by such bodies, respectively, as in the general law provided;

(35) Do all things necessary to provide the Town sufficient and safe water; to provide for the regulation, construction, and maintenance of water works, settling basins, pumping stations, water pipes, mains, rights-of-way for the same, reservoirs, and all appurtenances, whether within or without the corporate limits of the Town; to provide for rates and assessments for water service and to provide and fix liens or penalties including withdrawal of services for refusal or failure of the party served to pay for same;

(36) Provide for a sewerage collection, treatment, and disposal facility, whether within or without the corporate limits of the Town; to provide for rates and assessments for water service and to provide and fix liens or penalties including withdrawal of service for refusal or failure of the party served to pay for same;

(37) Collect and dispose of drainage, including storm water drainage, sewage, offal, ashes, garbage, and refuse, and to impose a compulsory service charge for such, or to license and regulate such collection and disposal;

(38) Provide an electric utility;

(39) Provide a gas utility system;

(40) Provide for health and safety of citizens, and preservation of property;



(41) Provide for and establish a design review commission for the purpose of developing aesthetic and architectural controls for the community, ensuring compatible development, promoting functional utility and property values, and maintaining balanced uses of land.

(42) Impose a historical preservation privilege tax on persons or entities constructing commercial and office developments on land within the corporate limits, as the Town deems appropriate, to pay the cost of capital improvements in the historic town square business district and other expenses related to such developments, including, but not limited to, incentive programs for private improvements and the providing of administrative services; and

(43) Have and exercise all powers that now or hereafter it would be competent for this charter specifically to enumerate, as fully and completely as though these powers were specifically enumerated herein.

(b) In addition, if the present or any future provisions of the general law of the State of Tennessee would grant powers to the Town that are not specifically set forth herein, the Town shall also have such powers.

**SECTION 2.03. INTERGOVERNMENTAL RELATIONS.** The Town may exercise any of its powers or perform any of its functions and may participate in the financing, by contract or otherwise, jointly or in cooperation with any one or more states, political subdivisions, or civil divisions or agencies thereof of the government of the United States.

**SECTION 2.04. CONSTRUCTION.** The powers of the Town under this charter shall be construed liberally in favor of the Town, and the specific mention of particular powers in this charter shall not be construed as limiting in any way the general powers stated in this article or those otherwise available to the Town by general law.

### **ARTICLE III**

#### **ELECTIONS**

**SECTION 3.01. DATE OF GENERAL TOWN ELECTION.** A general Town election shall be held the first Thursday following the second Monday in May until the year 2006. Beginning in the year 2006, the general Town election shall be held on the first Tuesday after the first Monday of November of each even-numbered year.

**SECTION 3.02 GENERAL ELECTION LAWS APPLY.** All elections shall be conducted in accordance with the general election laws and this charter.

**SECTION 3.03. VOTER QUALIFICATION REQUIREMENTS.** All persons who are qualified to vote for members of the General Assembly of the State of Tennessee and who have been actual bona fide residents and citizens of the Town for thirty (30) days next preceding the election shall be entitled to vote in all municipal elections.

**SECTION 3.04. CERTAIN POLITICAL ACTIVITY PROHIBITED.** No employee of the Town, other than the mayor and members of the board of mayor and aldermen to the extent they may be considered employees of the Town, shall continue in the employment of the Town and hold office as mayor or other member of the board of mayor and aldermen. Any employee (other than a member of the board of mayor and aldermen) who seeks elected position in the Town shall resign his office effective as of the date of the filing of his nominating petition.

### **ARTICLE IV**

#### **BOARD OF MAYOR AND ALDERMEN**

**SECTION 4.01. COMPOSITION, ELECTION, TERM OF OFFICE, RE-ELECTION, AND RUNOFFS.** The governing body of the Town shall consist of a mayor and five (5) aldermen to be known officially as the "board of mayor and aldermen", in which is vested all corporate, legislative and other powers of the Town, except as

otherwise provided in this charter. The board of mayor and aldermen shall hereinafter be referred to as the "board".

On the Thursday following the second Monday in May, 2003, the qualified voters of the Town shall elect a mayor and five (5) aldermen. The mayor shall be elected for a term to expire upon the taking of office of his successor elected at the election to be held in 2008. The terms of aldermen shall be as provided hereinbelow. The aldermen positions shall be numbered one (1) through five (5). On the Thursday next following the date of certification of the election result by the Shelby County Election Commission in the election held in May, 2003, the numbers one (1) through five (5) shall be placed in a box. The town clerk, in public view, shall pull out three (3) numbers. The three (3) aldermen positions matching such numbers shall be for a term to expire upon the taking of office of the successors to such positions elected in the elections to be held in 2006. The remaining two (2) aldermen positions shall be for a term to expire upon the taking of office of the successors to such positions elected at the elections to be held in 2008. At all elections following the May 2003 election, the mayor and aldermen shall be elected for a term of four (4) years. In filing for the May 2003 election and each subsequent election any candidate for mayor or alderman shall select and designate the one position being sought.

Beginning in the year 2006, elections for mayor and aldermen shall be held on the date of the regular state election on the Tuesday following the first Monday of November of even-numbered years.

In all elections, the mayor and aldermen shall be elected from the Town at large. In the event that no candidate receives a majority of the votes cast for a particular office, a runoff election shall be held between the two (2) candidates receiving the largest number of votes for that office. A runoff election shall be held on the first Tuesday after

the expiration of thirty (30) days next following the election in which no candidate received the majority of the votes cast for a particular office.

The board, in July of each year until 2006, shall elect an alderman to serve as vice mayor for a term of one (1) year, except that the vice mayor elected in 2006 shall serve until the date when the members of the board of mayor and aldermen elected in 2006 take office as provided in Section 4.02. In January 2007 and in January of each year thereafter the board shall elect an alderman to serve as vice mayor for a term of one (1) year. The vice mayor shall be eligible for re-election to such office.

The mayor and any alderman shall be eligible for re-election.

**SECTION 4.02. TAKING OF OFFICE.** Persons elected to the office of mayor and aldermen shall take office on the first Monday following certification of their election by the Shelby County Election Commission; provided, however, that in the event of a runoff election, no newly elected member of the board shall take office until after the results of such runoff election are certified, following which all newly elected members of the board shall take office on the first Monday after such certification.

**SECTION 4.03 QUALIFICATIONS FOR OFFICE.** No person shall be eligible to hold the office of mayor or alderman unless he is a qualified voter under the laws of the state of Tennessee, and has been a bona fide resident of the Town for at least sixty (60) days next preceding the election in which he is a candidate.

**SECTION 4.04. SALARIES AND REIMBURSEMENT FOR EXPENSES OF OFFICIALS.** The board is hereby authorized, by resolution upon the minutes, to fix a salary of the mayor of the Town at a sum not to exceed fifteen thousand dollars (\$15,000.00) per year; to fix the salary of the vice mayor at a sum not to exceed five thousand four hundred dollars (\$5,400.00) per year, such sum to be paid in lieu, rather than in addition to, the regular alderman salary; and to fix the salary of the aldermen at a sum not to exceed four thousand eight hundred dollars (\$4,800.00) per year; provided,

however, that no such increase shall take effect until there shall have occurred an election or elections such that all positions of the board have been subject to re-election following the passage of such resolution. At any time, the board may establish, increase or decrease the benefits, other than salaries, that are incidental to the office of mayor and aldermen; provided that such benefits are commensurate with like benefits being furnished to employees of the Town, such as, but not limited to, insurance under a group plan.

The board shall have the full right, power and authority to reimburse any elected official for any out-of-pocket expenses incurred by them in travel and for expenses actually incurred by elected officials in serving the Town.

**SECTION 4.05. TIME AND PLACE OF MEETINGS.** The board shall, by ordinance, fix the time and place at which the regular meetings of the board shall be held. Regular meetings of the board shall be held at least monthly for the conduct of such business as may properly come before the board. Adequate public notice of such meetings shall be given.

**SECTION 4.06. QUORUM AND ADJOURNMENT.** The presence of four (4) aldermen or the presence of the mayor and three (3) aldermen shall constitute a quorum. In the absence of the mayor and vice mayor, the four (4) aldermen present shall appoint one (1) of their number to be the presiding alderman. The mayor, vice mayor or the presiding alderman shall have a vote on all questions and shall have the authority to introduce or second motions, as shall all aldermen. A regular meeting at which a quorum is present may be adjourned by a majority vote, either from day to day or from time to time; but no such adjournment shall be taken to a date beyond the day preceding the next regular meeting; and any adjourned meeting shall continue as a regular meeting through said adjournment. The foregoing provisions notwithstanding, in

the event there exists on the board vacancies of more than two (2) members, a quorum shall be the entire membership of the board.

**SECTION 4.07. CALLED MEETINGS.** The board shall meet in special session on written notice or the mayor or any three (3) aldermen. Such notice shall be personally served on the parties entitled thereto. Adequate public notice of called meetings shall be given.

**SECTION 4.08. ORDINANCE PROCEDURE.** All ordinances passed heretofore for the Town are hereby declared valid and binding and are continued in effect unless they conflict with this charter. Ordinances hereafter shall be passed in the following manner:

All ordinances except the budget ordinance, which shall be passed as set forth in Section 9.06, shall be passed on three (3) different days at a regular, adjourned, or called meeting of the board. Ordinances may be amended up to and at the third and final reading. A public hearing shall be held prior to or at the third and final reading of an ordinance, and notice of such hearing shall be published in a newspaper of general circulation within the community and posted at the town hall. Ordinances shall be made available for public inspection in accordance with general law. Each ordinance shall be effective upon final passage unless by its terms the effective date is deferred.

Ordinances shall be signed by the mayor and shall be immediately taken charge of by the town clerk and by him numbered, placed in an ordinance book, and there authenticated by the signature of the town clerk and filed and preserved.

**SECTION 4.09 OFFICIALS' OATH OF OFFICE.** The mayor, aldermen, and judge(s) of the Town shall, before entering upon the duties of their respective offices, take an oath, before a person authorized to administer oaths in this state, to faithfully, uprightly, and honestly demean themselves as such officers of the Town during their continuance in office.

**SECTION 4.10 DUTIES OF THE MAYOR.** The mayor shall be the executive head of the Town, responsible for the efficient and orderly administration of the affairs of the Town and the enforcement of the ordinances of the Town and the laws of the state within the Town limits. The mayor shall have such powers and duties as are specified in this charter, as may be provided by ordinance not inconsistent with this charter and as are otherwise provided by law. It shall be the duty of the mayor to preside at all meetings of the board.

**SECTION 4.11. DUTIES OF THE VICE MAYOR.** The vice mayor of the Town of Collierville, in the absence, sickness, or the inability or disqualification of the mayor for any reason to perform his official duties, shall be authorized to act in the room and stead of the mayor, and all powers and authority that are in this charter conferred on the mayor are hereby conferred on the vice mayor when he is acting as mayor as fully and completely as if the same were set out in detail.

**SECTION 4.12. VACANCY IN THE OFFICE OF MAYOR, VICE MAYOR OR ALDERMAN.** A vacancy shall exist in the applicable office if the mayor or an alderman resigns, dies, moves his residence from the Town, has been continuously disabled for a period of six (6) months so as to prevent him from discharging the duties of his office, accepts any federal, state, county, or other municipal office, which is filled by public election, or is convicted of malfeasance or misfeasance in office, a felony, or a violation of the election laws of the state, or is adjudicated to have violated the charter of the Town. In addition, in the event the mayor or an alderman fails to attend sixty (60) percent of the regular board meetings in any period of twelve (12) consecutive months, such shall be a reason for declaring a vacancy in the applicable office.

The declaration of a vacancy, as defined herein, in the office of mayor or in the office of alderman may be made by motion of any member of the board at any meeting

thereof. Such vacancy shall be deemed to have occurred upon the passage of such motion by the board.

(a) Procedure for filling vacancy in office of mayor. When a vacancy occurs in the office of the mayor, the vice mayor shall temporarily assume the office of mayor. Within thirty (30) days after a vacancy occurs in the office of mayor, the board shall appoint to such office an alderman to serve for the remainder of the unexpired term thereof; provided that if the balance of the existing term at the time of the vacancy is more than two (2) years and the vacancy occurs more than ten (10) days before the deadline for qualifying for the next biennial election, then the position of mayor shall be filled at such next biennial election and the person appointed to such office shall only serve as mayor until a person is elected as mayor at such election. The person so elected shall be elected to fill the unexpired term of his predecessor as mayor.

(b) Procedure for filling vacancy in office of vice mayor. When the vice mayor assumes the office of mayor, or when his term as vice mayor expires, or if the alderman serving as vice mayor should vacate his office for any other reason, so that the office of vice mayor is then vacant, the board, within thirty (30) days after such vacancy occurs, shall elect from its membership a vice mayor to serve for the unexpired term of the vice mayor who has vacated the office.

(c) Procedure for filling vacancy in the office of alderman. Within thirty (30) days after a vacancy occurs in the office of Alderman, the board shall appoint to such office a citizen, who would be eligible for election thereto, to serve for the remainder of the unexpired term thereof; provided that if the balance of the existing term at the time of vacancy is more than two (2) years and the vacancy occurs more than ten (10) days before the deadline for qualifying for the next biennial election, then such position of alderman shall be



filled at such next biennial election and the person appointed to such office shall only serve as alderman until a person is elected as alderman at such election. Such person shall be elected to fill the unexpired term of his predecessor as alderman.

If there occurs on the board three (3) or more vacancies which remain unfilled for a period of thirty (30) days, the board shall forthwith, by resolution, call upon the Election Commission for Shelby County to call a special election for the purpose of filling such vacancies. This special election shall be held in the same manner as provided in this charter for regular elections. The aldermen elected at such special election shall hold office for the remainder of the unexpired term of the position for which they stand for election.

## **ARTICLE V**

### **TOWN ADMINISTRATOR**

**SECTION 5.01. APPOINTMENT, SALARY, AND REMOVAL.** The board shall appoint an operating administrative officer with the title of town administrator. He shall serve an indefinite term and may be removed from office by the board of mayor and aldermen.

**SECTION 5.02. DUTIES.** The town administrator shall be directly responsible to the mayor and the board to exercise general administrative responsibilities assigned to him for the coordination and direction of the activities of the operating departments, including, but not limited to, preparation of official agenda for all meetings, preparation and administration of annual operating and capital improvement budgets, preparation of reports for the mayor and board, purchasing, investigation of citizens' complaints, application for grants and administration thereof, administration of personnel policies, including the selection and discipline of personnel, provided however, the qualifications of all applicants for operating department heads shall be reviewed by the town

administrator, and operating department heads shall be nominated by the mayor and appointed or terminated only by majority vote of the board; and such other duties as may be described by ordinance. The town administrator shall also maintain all necessary intergovernmental relationships and attend all meetings of the board.

**SECTION 5.03. RESIDENCY REQUIREMENT.** The town administrator need not be a resident of Collierville at the time of appointment but promptly thereafter shall become and thereafter remain an actual resident of the Town. Salary and other benefits incidental to his position shall be fixed by the board.

**SECTION 5.04. ABSENCE OF THE TOWN ADMINISTRATOR.** In the temporary absence or disability of the town administrator, an employee of the Town designated by the mayor or the town administrator shall serve as town administrator.

At any time during such absence or disability, the mayor may revoke such designation and appoint another employee of the Town to serve until the town administrator shall return.

**SECTION 5.05 ALDERMEN DEALING WITH PERSONNEL THROUGH TOWN ADMINISTRATOR.** Individual aldermen are not to have or exercise direct authority over any of the personnel of the Town but may contact such personnel for information gathering purposes to assist the aldermen in meeting their collective responsibilities, provided that such contact is made in such a way as not to interfere with the operation of the department of the Town involved. All other contact with personnel of the Town by aldermen shall be through the town administrator.

## **ARTICLE VI**

### **TOWN ATTORNEY**

**SECTION 6.01. QUALIFICATIONS.** The town attorney shall be an attorney at law entitled to practice in the courts of the State of Tennessee.

**SECTION 6.02. APPOINTMENT, DUTIES, AND SALARY.** The town attorney shall be appointed by the board and shall generally direct management of all litigation in which the Town is a party, including the function of prosecuting attorneys in the Town Court; represent the Town in all legal matters and proceedings in which the Town is a party or interested or in which any of its officers is officially interested; attend meetings of the board as requested and advise the board and committees and members thereof, the town administrator and heads of all departments, offices, or agencies as to all legal questions affecting the Town's interests; and approve as to form, in those instances where required by the board, all contracts, deeds, bonds, ordinances, resolutions, and other documents to be signed in the name of or made by or with the Town. His compensation and other benefits incidental to his position shall be fixed by the board, and he shall serve at the will of the board.

**SECTION 6.03. ASSISTANT TOWN ATTORNEYS.** The board may appoint one (1) or more assistant town attorneys with such qualifications as the board may determine and same shall perform such duties as the town attorney shall assign to them. The compensation and other benefits incidental to the positions of the assistant town attorneys shall be fixed by the board, and they shall serve at the will of the board.

## **ARTICLE VII**

### **TOWN CLERK**

**SECTION 7.01. APPOINTMENT.** The town clerk shall be nominated by the mayor and confirmed by the board. He shall serve at such salary and with such other benefits incidental to his position as are provided by the board, and shall serve at the will of the board. The town clerk shall be subject to day to day supervision by the town administrator.

**SECTION 7.02. SHALL KEEP MINUTES.** It shall be the duty of the town clerk to be present at all meetings of the board and to prepare and maintain a full and

accurate record of all business transacted by the same. In his absence from a meeting the officer presiding at the meeting shall appoint a person to fulfill the duties of town clerk.

**SECTION 7.03. SHALL BE CUSTODIAN OF PUBLIC RECORDS, BONDS, ETC.** the town clerk shall have custody of and preserve in his office the town seal, the public records, ordinance books, minutes of the board, contracts, bonds, titles, deeds, certificates and papers, all official indemnity or security bonds, and all other bonds, oaths, and affirmations, and all other records, papers and documents not required by this charter or by ordinance to be deposited elsewhere, and register them by numbers, dates, and contents, and keep an accurate and current index thereof.

**SECTION 7.04. SHALL PROVIDE AND CERTIFY COPIES OF RECORDS, PAPERS, ETC.** The town clerk shall provide and, when required, certify copies of records, papers and documents in his office and charge therefor, for the use of the Town, such fees as may be provided by ordinance or resolution; and cause copies of ordinances to be published as may be directed by the board and kept in his office for distribution.

**SECTION 7.05. SHALL PERFORM ANY OTHER DUTIES IMPOSED.** The town clerk shall also perform any other duties imposed upon him by this charter, by ordinance, by the town administrator or by the board.

## **ARTICLE VIII**

### **ADMINISTRATION**

**SECTION 8.01. DEPARTMENTS, OFFICES, AND AGENCIES.** The board may establish town departments, offices or agencies in addition to those created by this charter and may prescribe the functions of all departments, offices and agencies not in conflict with this charter. Departments, offices and agencies created by the board may be abolished or combined.

**SECTION 8.02. EMPLOYEES WHO HANDLE MONEY SHALL BE BONDED.**

The town administrator and every officer, agent, and employee having duties embracing the receipt, disbursement, custody, or handling of money shall, before entering upon his duties, execute a surety bond with a surety company authorized to do business in the state of Tennessee, as surety, in such amount as shall be prescribed by ordinance. All such bonds and sureties shall be subject to the approval of the board, and the board may provide for blanket bonds. The cost of all bonds shall be an expense of the Town.

**SECTION 8.03. SERVICES FURNISHED AND EQUIPMENT USED OUTSIDE CORPORATE LIMITS.** The Town is empowered, in its governmental capacity, to use its firefighting, emergency medical and other equipment and personnel outside its corporate limits, when and under such circumstances, limitations and conditions as the board may determine.

The board may provide or agree to such terms, limitations, restrictions and conditions as may seem proper or advisable to it with respect to such outside use of the equipment and personnel; and it may refuse to permit any such outside use. In default of action by the governing body, the mayor shall have authority to act for the governing body in authorizing the use of such equipment or personnel outside of the corporate limits of Collierville, Tennessee, and he may likewise have authority to refuse to permit such outside use.

Whenever said firefighting, emergency medical and/or other equipment and Town personnel are used or employed outside the corporate limits of the Town, the Town of Collierville and its officials, agents, servants, employees and volunteers authorizing or performing such service, shall be entitled to all the immunities and protection from liability to which they are entitled with respect to similar services within the corporate limits of the Town. It is expressly provided that the performance of the service shall constitute the discharge of a governmental function.

**SECTION 8.04. APPOINTMENTS.** No person may serve as an appointed member of any board of the Town while that person is an appointed member of another board of the Town except as provided by ordinance or state law.

**SECTION 8.05. SPECIAL CONTRACTUAL APPOINTMENTS.** The board shall be empowered to appoint special consultants, architects and auditors when deemed advisable or necessary.

**SECTION 8.06. AUTHORITY TO REGULATE OR PROHIBIT SOLICITORS, PEDDLERS, ETC.** The board is hereby authorized, by ordinance, to regulate or prevent the practice of being in or upon private residences within the Town by solicitors, peddlers, hawkers, itinerant merchants, and transient vendors of merchandise, not having been requested or invited to do by the owners or occupants of a private residence, for the purpose of soliciting orders for the sale of goods, wares or merchandise, or disposing of, peddling or hawking the same.

**SECTION 8.07. PERSONNEL RULES AND REGULATIONS.** The rules and regulations under which the personnel system of the Town shall be governed shall be prepared by the town administrator and shall become effective when adopted by the board. These rules and regulations may be amended from time to time and shall set forth personnel policies and procedures

**SECTION 8.08. PROHIBITIONS.** No person shall be appointed to, or removed from, or in any way favored or discriminated against with respect to any Town position or appointive Town administrative office because of race, sex, age, disability, national origin, political or religious opinions or affiliations.

## ARTICLE IX

### **FINANCE AND BUDGET**

**SECTION 9.01. FISCAL YEAR.** The fiscal year of the Town shall begin on the first day of July and end on the last day of June, unless otherwise provided by ordinance.

**SECTION 9.02. ANNUAL BUDGETS REQUIRED.** The adoption of an annual budget shall be a prerequisite to the appropriation of money for municipal purposes and the levy of property taxes.

**SECTION 9.03. TOWN ADMINISTRATOR REQUIRED TO PREPARE AND SUBMIT ANNUAL BUDGET AND EXPLANATORY MESSAGE.** At least forty-five (45) days before the beginning of the fiscal year, the town administrator shall prepare and submit to the board a budget for the ensuing fiscal year and an accompanying message. It shall outline the proposed financial policies of the Town for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the Town's debt position, include such other material as the town administrator deems desirable or the board may require, and otherwise be in such form and substance as may be required by general state law.

**SECTION 9.04. REQUIRED CONTENT AND ORGANIZATION OF BUDGET.** The budget shall provide a complete financial plan for the ensuing fiscal year and, except as required by law or this charter, shall be in such form as the town administrator deems desirable or the board may require.

**SECTION 9.05. PUBLIC HEARING ON ANNUAL BUDGET.** After considering the town administrator's proposed annual budget and the making of any modification thereto, the board shall schedule a time and place for a public hearing thereon and shall give proper notice of the time and place of the public hearing, a summary of the annual

budget tentatively approved by the board, and a notice of when and where the entire annual budget may be inspected. Notice of the public hearing must be given at least seven (7) days in advance of the date thereof.

**SECTION 9.06. BUDGET ADOPTION.** After the public hearing, the board shall adopt the budget, with such modification or amendments as the board deems advisable, for the ensuing year on or before the last day of the fiscal year currently ending. If it fails to adopt the budget by this date, the appropriations for the current fiscal year shall become the appropriations for the next fiscal year until the adoption of the new budget ordinance.

Adoption of the budget shall be by resolution and shall be passed upon one reading at a regular, adjourned, or called meeting of the board. Adoption of the budget shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated.

**SECTION 9.07. AMENDMENTS TO THE ANNUAL BUDGET.** Except as otherwise restricted by law, the board may amend the budget by resolution upon one reading at a regular adjourned, or called meeting of the board. In order to increase expenditures over the total of those authorized by the current budget, the board must amend the budget resolution.

**SECTION 9.08. TRANSFER OF UNENCUMBERED APPROPRIATIONS.** At any time during the fiscal year, the town administrator may transfer part or all of any unencumbered line items within a department, office, or agency. The board, by appropriate resolution may authorize the town administrator to transfer moneys from one (1) department, office or agency to another within the same fund subject to such limitations and procedures as it may prescribe.

**SECTION 9.09. EMERGENCY APPROPRIATIONS.** Upon a declaration by the board that there exists a public emergency affecting life, health, property, or the public



peace, the board may make emergency appropriations by ordinance. To the extent that there are no available unappropriated revenues to meet such appropriations, the board is authorized to borrow funds sufficient to meet an emergency by issuing evidence of obligations. Provision shall be made in the budget for the succeeding fiscal year for the payment of such obligations.

**SECTION 9.10. DEFICITS.** If at any time during the fiscal year it appears probable to the town administrator that the available revenues will be insufficient to meet the amount appropriated, he shall report, without delay, to the board, the estimated amount of the deficit, any remedial action taken by him, and his recommendations as to any other steps to be taken. The board shall then take such action as it deems necessary to prevent or minimize any deficit and for that purpose it may by ordinance reduce appropriations.

**SECTION 9.11. LAPSING OF APPROPRIATIONS.** Any portion of an annual appropriation remaining unexpended and unencumbered at the close of a fiscal year shall lapse and be credited to the respective fund's fund balance.

**SECTION 9.12. INCURRENCE AND DISCHARGE OF OBLIGATIONS.** No payment shall be made or obligation incurred against any appropriation unless the town administrator certifies that an appropriation has been made for that purpose and that there is unexpended and unencumbered in the appropriation for that purpose an amount sufficient to meet the obligation or to make the expenditure. However, except where prohibited by law, nothing herein shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year.

**SECTION 9.13. BORROWING OF FUNDS.** The board may authorize the Town to issue bonds or to borrow money in conformance with the laws of the state of Tennessee.

**SECTION 9.14. ACCOUNTING RECORDS, CONTROLS AND AUDITS.** Adequate accounting records shall be installed and maintained in accordance with generally accepted accounting principles. Constant and comprehensive budgetary control shall be maintained. An audit of the financial statements of the Town shall be required by action of the board and same shall be made after the end of each fiscal year by an independent certified public accountant.

**SECTION 9.15. PURCHASING POLICIES AND PROCEDURES.** All purchases of goods and services by authorized officials of the Town, using or encumbering municipal funds, shall be made in accordance with policies of the board and applicable laws of the state of Tennessee.

## **ARTICLE X**

### **TAXATION**

**SECTION 10.01. GENERAL POWER TO LEVY TAXES.** Subject to provisions of general law, the board shall have and is hereby given the power to levy taxes for all corporate purposes upon all taxable property, real, personal and mixed, and privileges within the limits of the Town, and be it further enacted, that the board shall have the power to license, tax and regulate everything licensed, taxed and regulated by the state and/or county.

**SECTION 10.02. ASSESSMENT AND LEVY.** The principles established for state and county taxation shall be used to assess for taxation all property within the Town not exempt by general law. Assessments made by the Shelby County Tax Assessor may be adopted by the Town or assessments may be made by the Town in accordance with applicable law.

**SECTION 10.03. PENALTIES AND INTEREST ON DELINQUENT TAXES.**

The Town shall establish due and delinquent dates for payment of property taxes and shall be allowed to assess the same penalties and collect the same rate of interest on delinquent taxes which may be due the municipality as are now or may hereafter be assessed and/or collected by the County of Shelby. Taxes shall be due on December 1<sup>st</sup> of each year, and declared delinquent if not paid in full on or before March 1 of the following year.

**SECTION 10.04. PRIVILEGE TAXES GENERALLY.** The Town shall be authorized to fix by ordinance, in accordance with the general laws of the state of Tennessee, a business privilege tax on all businesses, pursuits, occupations and professions carried on in the Town.

**SECTION 10.05. INSTITUTION OF SUITS TO ENFORCE TAX LIENS.** Before March 1 of the second year following the year for which assessed, the town administrator shall certify to the town attorney the list of all real estate upon which municipal taxes remain due and unpaid or which is liable for sale for other taxes and assessments; and the attorney shall proceed at once to file or cause to be filed suits in the appropriate court for the collection of such taxes, assessments, penalties, and interest and enforcement of tax liens. Upon the filing of suit, an additional penalty established by the board shall accrue upon all delinquent taxes as attorney's fees. Suits may be filed, prosecuted and the land sold in the same manner as for the enforcement of tax liens for delinquent county taxes, or as otherwise provided by state law.

**SECTION 10.06. STATUTORY LIEN.** All municipal taxes on real estate in the Town and all penalties and costs accruing thereon are hereby declared to be a lien on the real estate on and after January 1 of the year for which the same are assessed.

**SECTION 10.07. COLLECTION OF DELINQUENT PERSONAL PROPERTY TAXES.** All taxes delinquent for thirty (30) days may be collected by distress warrants,

by the sale of personal property, and by any other judicially accepted means. The delinquent tax list in the hands of the collector shall have the force and effect of a judgment and execution from a court of record.

**SECTION 10.08. OCCUPANCY TAX.**

SECTION A. As used in this section unless the context otherwise requires:

(1) "Consideration" means the consideration charged, whether or not received, for the occupancy in a hotel valued in money whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits, property and services of any kind or nature without any deduction therefrom whatsoever. Nothing in this definition shall be construed to imply that consideration is charged when the space provided to the person is complimentary from the operator and no consideration is charged to, or received from, any person.

(2) "Finance director" means the finance director of the Town of Collierville, Tennessee.

(3) "Hotel" means any structure or space, or any portion thereof, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist camp, tourist court, tourist cabin, motel or any place in which rooms, lodgings or accommodations are furnished to transients for a consideration.

(4) "Occupancy" means the use or possession, or the right to the use or possession, of any room, lodgings or accommodations in any hotel.

(5) "Operator" means the person operating the hotel whether as owner, lessee or otherwise.

(6) "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

(7) "Transient" means any person who exercises occupancy or is entitled to occupancy for any rooms, lodgings or accommodations in a hotel for a period of less than thirty (30) continuous days.

SECTION B. The board of the Town is authorized to levy by ordinance and collect a privilege tax upon the privilege of occupancy in any hotel of each transient in any amount to be set by ordinance by the Town of up to five percent (5%) of the consideration charged by the operator. Such tax is a privilege tax upon the transient occupying such room and is to be collected as provided in this charter.

#### SECTION C.

(1) Such tax shall be added by each and every operator to each invoice prepared by the operator for the occupancy of the hotel and given directly or transmitted to the transient for the occupancy in the operator's hotel. Such tax shall be collected by such operator from the transient and remitted to the Town.

(2) When a person has maintained occupancy for thirty (30) continuous days, that person shall receive from the operator a refund or credit for the tax previously collected from, or charged to, the transient, and the operator shall receive credit for the amount of such tax if previously paid or reported to the Town.

#### SECTION D.

(1) The tax hereby levied shall be remitted to the finance director or his designee by all operators who lease, rent or charge for any rooms, lodgings, spaces or accommodations in hotels within the Town which finance director shall be charged by ordinance of the Town with the duty of collection thereof, such tax to be remitted to such officer not later than the twentieth (20<sup>th</sup>) day of each month for the preceding month. The operator is required to collect the tax from the transient at the time of the presentation of the invoice for such occupancy whether prior to occupancy or after occupancy as may be the custom of the operator, and if credit is granted by the operator to the transient, then the obligation to the Town for such tax shall be that of the operator.

(2) For the purpose of compensating the operator for remitting the tax authorized and levied pursuant hereto and the related ordinances of the Town, the operator shall be allowed two percent (2%) of the amount of the tax due and accounted for and remitted to the Town in the form of a deduction in submitting the report and paying the amount due by such operator, provided the amount due was not delinquent at the time of payment.

SECTION E. The finance director shall be responsible for the collection of such tax and shall place the proceeds of such tax in such accounts as provided in the ordinance of the Town adopted under the authority hereof. A monthly tax return shall be filed under oath with the finance director by the operator with such number of copies thereof as the finance director may reasonably require for the collection of such tax. The report of the operator shall include such facts and information as may be deemed reasonable for the

verification of the tax due. The form of such report shall be developed and furnished by the finance director and approved by the board prior to use. The finance director shall audit each operator in the town at least once a year and shall report on the audits to the board. The board is hereby authorized to adopt reasonable rules and regulations for the implementation of the provisions of this act.

SECTION F. No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator or that it will not be added to the rent, or that if added, any part will be refunded.

SECTION G. Taxes collected by an operator which are not remitted to the finance director on or before the due dates are delinquent. An operator is liable for interest on such delinquent taxes from the due date at the rate of twelve percent (12%) per annum, and is liable for an additional penalty of one percent (1%) for each month or fraction thereof such taxes are delinquent. Such interest and penalty shall become a part of the tax herein required to be remitted. Each occurrence of willful refusal of an operator to collect or remit the tax or willful refusal of a transient to pay the tax imposed is unlawful and shall be punishable by a civil penalty not in excess of five hundred dollars (\$500.00). In addition, it is unlawful for any operator to knowingly file a false tax return and a violation shall be punishable by a civil penalty not in excess of five hundred dollars (\$500.00).

SECTION H. It is the duty of every operator liable for the collection and payment to the Town of any tax imposed by this charter to keep and preserve for a period of three (3) years all records necessary to determine the amount of such tax due for which he or she may have been liable for the collection of, and payment to, the Town, which records the finance director, his designee or any

accounting firm or accountant employed by the Town, shall have the right to inspect at all reasonable times.

#### SECTION I.

(1) The finance director in administering and enforcing the provisions of this charter and any ordinance adopted pursuant hereto shall have as additional powers, those powers and duties with respect to the collecting taxes as provided in Tennessee Code Annotated, Title 67 or otherwise provided by law for the county clerks and/or municipal officers.

(2) Upon any claim of illegal assessment and collection, the taxpayer has the remedies provided in Tennessee Code Annotated, Title 67, Chapter 23, it being the intent of this charter that the provisions of law which apply to the recovery of state taxes illegally assessed and collected shall also apply to taxes illegally assessed and collected under the authority of this charter. The finance director shall possess those powers and duties as provided in Tennessee Code Annotated, Section 67-1-707, for county clerks applicable to adjustments and refunds of such tax.

(3) With respect to the adjustment and settlement with taxpayers, all errors of taxes collected by the finance director under authority of this charter shall be refunded by the Town.

(4) Notice of any tax paid under protest shall be given to the finance director and the ordinance authorizing levy of the tax shall designate a municipal officer against whom suit may be brought for recovery.

SECTION J. The proceeds of the tax authorized by this charter shall be allocated to such funds as the board shall direct.



**SECTION 10.09. THE COLLIERVILLE HISTORIC PRESERVATION TAX.**

SECTION A. As used in this section, unless the context otherwise requires:

(1) "Building permit" means a permit for development issued by the Town for construction of a building within the municipal limits;

(2) "Certificate of occupancy" means a license for occupancy of a building or structure issued in the Town;

(3) "Commercial and office building" means any structure built for the support, shelter or enclosure of persons, chattels or movable property of any kind for commercial purposes or to provide office space; the term includes a mobile home;

(4) "Development" means the construction, building, reconstruction, erection, extension, betterment or improvement of land providing a building or structure or the addition to any building or structure, or any part thereof, which provides, adds to, or increases, the floor area of a commercial or office building of a non-residential use;

(5) "Floor area" means the total of the gross horizontal area of all floors, including usable basements and cellars, below the roof and within the outer surface of the main walls of principal or accessory buildings or the center lines of party walls separating such buildings or portions thereof, or within lines drawn parallel to and two (2) feet within the roof line of any building or portions thereof without walls, but excluding arcades, porticos and similar open areas which are accessible to the general public, and which are not designed or used as sales, display, storage, service, production or office areas;

(6) "Governing body" means the board of the Town;

(7) "Historic preservation program" means proposed schedule of future projects in the Town Square Business District, listed in order of construction priority, together with cost estimates and the anticipated means of financing each project approved by the board;

(8) "Non-residential" means the development of any property for any use other than residential use, except as may be exempted by this act;

(9) "Person" means any individual, firm, co-partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, or other group or combination acting as a unit, in the plural as well as the singular number;

(10) "Place of worship" means that portion of a building owned by a religious institution which has tax-exempt status, which is used for worship services and related functions; provided, however, that a place of worship does not include buildings or portions of buildings which are used for purposes other than for worship and related functions or which are or are intended to be leased, rented or used by persons who do not have tax-exempt status;

(11) "Public buildings" means a building owned by the state of Tennessee or any agency thereof, a political subdivision of the state of Tennessee, including, but not necessarily limited to, counties, cities, school districts and special districts, or the federal government or any agency thereof; and

(12) "Residential" means the development of any property for a dwelling unit or units.

SECTION B. It is the intent and purpose of this section to authorize the town to impose a tax on new commercial and office development within the corporate limits, but outside the Historic Town Square business district, to be payable at the time of issuance of a building permit or certificate of occupancy so as to ensure and require that the persons responsible for new development share in the burdens of growth by paying their fair share of the costs of maintaining, improving and developing the Historic Town Square made necessary by such development.

SECTION C. Engaging in the act of commercial and office development within Collierville, except as provided in Section E herein, is declared to be a privilege upon which Collierville may, by ordinance of the governing body, levy a tax in an amount not to exceed the rate set forth in Section F.

SECTION D. The board shall impose the tax authorized herein by ordinance after adopting a Historic Town Square capital improvements program indicating the need for, and the cost, for the projects anticipated to be funded, in part, by this tax and after finding that the need for such projects is reasonably related to new commercial and office development in the Town. The ordinance of the board imposing this tax shall state the rate to be applied on new commercial and office development. The governing body shall, by ordinance, adopt administrative guidelines, procedures, policies, regulations, forms and an appellate review process necessary to properly implement, administer and enforce the provisions of this section.

SECTION E. The provisions of Section 10.09 shall not apply to development of:

- (1) Residential structures;
- (2) Industrial buildings;

(3) Buildings used for agricultural purposes;

(4) Public buildings; and

(5) Places of worship.

SECTION F. For the exercise of the privilege described herein, Collierville may impose a tax on new commercial and office development not to exceed fifty cents (\$0.50) per gross square foot of development. The Town may develop a tax rate schedule by which commercial and office building uses are classified by type for the purpose of imposition of the tax authorized herein.

SECTION G. The tax established by this section shall be collected at the time of application for a building permit for development as herein defined or, if a building permit is not required, at the time of application for a certificate of occupancy by the official duly authorized in such jurisdiction to issue building permits or certificates of occupancy. The Town shall, before issuance of a building permit or certificate of occupancy, receive payment in cash or by negotiable instrument payable to the municipality. No building permit for development as herein defined, or certificate of occupancy, if no building permit is required, shall be issued in Collierville unless the tax has been paid in full or a negotiable instrument payable to the Town has been received.

SECTION H. All funds collected by the imposition of the tax shall be used for the purpose of preserving, maintaining, improving and developing public facilities and promoting private redevelopment within the Historic Town Square of Collierville, the need for which is reasonably related to new commercial and office development within the corporate limits of Collierville.

SECTION I. The authority to impose this tax on new commercial and office development in the Town is in addition to all other authority to impose taxes, fees, assessments or other revenue-raising or land development

regulatory measures granted either by the private or public acts of the state of Tennessee and the imposition of such tax, in addition to any other authorized tax, fee, assessment or charge, shall not be deemed to constitute double taxation.

SECTION J. The provisions of this section shall in no manner repeal, modify or interfere with the authority granted by any other public or private law applicable to the Town. This section shall be deemed to create an additional and alternative method for Collierville to impose or collect taxes for the purpose stated herein made necessary by new commercial and office development within the municipality.

## **ARTICLE XI**

### **JUDICIAL DEPARTMENT**

**SECTION 11.01. JUDICIAL DEPARTMENT.** The judicial department of the Town shall be established and administered in the following manner.

**SECTION 11.02. NUMBER OF JUDGES.** The Town shall have one town judge until the board may, by ordinance, increase the number of judges.

**SECTION 11.03. QUALIFICATIONS AND TERM.** All persons serving as town judge shall be licensed to practice law in the courts of the state of Tennessee and shall meet the qualifications established by Article V, Section 4 of the Tennessee Constitution, to wit: They shall be thirty (30) years of age, shall before their election have been a resident of the state of Tennessee for five (5) years and of the Town for one (1) year and shall be elected by the qualified voters of the Town for a term of service of eight (8) years, (i) except for certain instances in which a person may be appointed as town judge for a term which shall expire after the next applicable regular August general election and (ii) except for any initial term of elected service which may be shorter, all as provided hereinafter.

**SECTION 11.04. JURISDICTION AND POWERS.** The jurisdiction of the town judge shall extend to the trial of all offenses against the ordinances of the Town and, concurrently with the Court of General Sessions of Shelby County, Tennessee, for violation of the criminal laws of the state. Costs in trials of offenses against the ordinances of the Town shall be provided by ordinance. Costs in other matters shall be as established under general laws of the state of Tennessee. The town judge shall have the power to levy fines, penalties, and costs, to issue all necessary process, to administer oaths, and to maintain order, including the power to punish for contempt by fine or confinement not exceeding the limits provided by general laws.

**SECTION 11.05. BAIL.** The bail of persons arrested and awaiting trials and persons appealing the decision of a town judge shall be fixed by the town judge and upon such security as in his discretion he deems necessary or as otherwise may be provided by ordinance or general law.

**SECTION 11.06. SEPARATION OF POWERS.** The town judge shall be the exclusive judge of the law and facts in every case before the court and no official or employee of the Town shall attempt to influence his decision except through pertinent facts presented in court.

**SECTION 11.07. POPULAR ELECTION OF JUDGE(S).** The popular election of the town judge is hereby chosen and all town judges shall be popularly elected, subject to the provisions for initial appointments as provided for herein and appointments to fill any vacancy.

**SECTION 11.08. TERMS; ELECTION PROCEDURE.** The town judge elected at present shall remain in office through the term for which he was elected. Thereafter, the term of office of a town judge shall be eight (8) years. All subsequent elections for town judge pursuant to this charter and general laws shall be held in accordance with Article VII, Section 5 of the Tennessee Constitution and the general law.

**SECTION 11.09. VACANCIES.** A vacancy in the office of the town judge shall be filled by appointment of the board. The person appointed, however, may serve only until the next regular August general election. At such election, a person shall be elected to serve any unexpired term if the full term of his successor is not to be filled at such election. In the temporary absence of a town judge, a qualified person shall be appointed by the board or appointed pursuant to the statutes and general law of the state of Tennessee to serve until the return of the presiding judge.

**SECTION 11.10. COMPENSATION.** The salary and any other benefits relating to the office of all town judges shall be established by the board by ordinance thirty (30) days prior to the qualification date for the town judge's election for the next term of office and shall not be increased nor diminished during any such term. The salary for the town judge elected at present shall remain at twenty-five thousand three hundred dollars (\$25,300) annually until changed in accordance with the foregoing. The salary shall be paid monthly from the general fund of the Town. In addition, as part of the compensation relating to the office of town judge, a town judge, if otherwise eligible for coverage under the health and medical benefits plan of the Town, shall be afforded the same coverage under such plans, at the expense of the Town, as is generally afforded to the other employees of the Town.

**SECTION 11.11. RECORDS; DOCKETS; CITY COURT CLERK.** The Town does not elect, as permitted by the laws of the state of Tennessee, to require the city court clerk to be elected. The town administrator shall have the duty of maintaining all records of the city court in accordance with applicable laws. The town administrator may employ on behalf of the Town a person to assist him in this function and such person shall be designated as the city court clerk. The board shall require the proper maintenance of the docket of the city court and other records of the court. Subject to the

general law and the authority of the town judge, the board shall fix the regular time for holding court.

## **ARTICLE XII**

### **MISCELLANEOUS**

**SECTION 12.01. GENDER.** Any pronoun used herein or any reference to the term aderman or aldermen shall be construed to mean the proper gender of the person to whom it shall apply under the circumstances.

**SECTION 12.02. CORPORATE EXISTENCE, EXISTING ORDINANCES AND RESOLUTIONS.** The corporate existence of the Town is continued. All existing ordinances, obligations, resolutions or other actions of the board not inconsistent with this charter shall remain in full force and effect until amended or repealed in the manner herein provided.

**SECTION 12.03. EXPIRATION OF TERMS OF ELECTED OFFICERS.** Nothing in this charter shall be construed as having the effect of removing any incumbent from office or abridging the term of any official prior to the end of the term for which he was elected.

**SECTION 12.04. SEVERABILITY.** If any article, section, subsection, paragraph, sentence or part of this charter shall be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect or impair any other parts of this charter unless it clearly appears that such other parts are necessarily dependent upon the part or parts held to be invalid or unconstitutional. It is the legislative intent in enacting this charter that each article, section, subsection, paragraph, sentence or part be enacted separately and independently of each other.

SECTION 2. Chapter 230 of the Private Acts of 1988, Chapter 35 of the Private Acts of 1991, Chapters 174 and 175 of the Private Acts of 1992, Chapter 187 of the Private Acts of



1996, Chapter 41 of the Private Acts of 1999, and all other acts amendatory to Chapter 230 of the Private Acts of 1988, are repealed.

SECTION 3. Approval By The board. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the board of mayor and aldermen of the Town within sixty (60) days of its signing by the governor. Its approval or nonapproval shall be proclaimed by the mayor of Collierville and certified by him to the Secretary of State.

SECTION 4. Effective Date. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes it shall become effective upon being approved as provided in SECTION 3.